

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Requests for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Greenbrier County School District)	File No SLD-338660
Cleveland, Ohio)	
)	
Mason County School District)	File No. SLD-343928
Cleveland, Ohio)	
)	
Preston County School District)	File No. SLD-338182
Cleveland, Ohio)	
)	
Raleigh County School District)	File No. SLD-393628
Beckley, West Virginia)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	
)	

ORDER

Adopted: April 21, 2005

Released: April 22, 2005

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration Requests for Review filed by Greenbrier County School District, Cleveland, Ohio; Mason County School District, Cleveland, Ohio; Preston County School District, Cleveland, Ohio; and Raleigh County School District, Beckley, West Virginia.¹ The Requests for Review seek review of decisions by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator). Consistent with precedent, we grant the Requests for Review to the extent described herein and remand them to SLD to take appropriate action consistent with this Order.

2. Each of SLD's decisions at issue in the Requests for Review involves a denial of funding on the ground that the applicant violated the Commission's "thirty percent" policy. As described in the

¹Letter from Nathaniel Hawthorne, Greenbrier County School District, to Federal Communications Commission, filed December 22, 2003; Letter from Nathaniel Hawthorne, Mason County School District, to Federal Communications Commission, filed March 18, 2004; Letter from Nathaniel Hawthorne, Preston County School District, to Federal Communications Commission, filed March 18, 2004; Letter from Linda Sandler, Raleigh County School District, to Federal Communications Commission, filed February 3, 2005 (collectively, Requests for Review). Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. See 47 C.F.R. § 54.719(c).

Requests for Review, SLD determined that the funding requests included thirty percent or more of unsubstantiated amounts of eligible services and concluded that the inclusion of such requests violated the thirty percent policy, resulting in denial of the funding requests.² As we recently held in the *Iroquois Order*, the thirty percent policy applies to requests for ineligible services, not for unsubstantiated amounts of eligible services.³ We therefore find that SLD's actions go beyond the appropriate application of the thirty percent policy. Applicants must be aware, however, that if funding requests are submitted in amounts that go beyond what they can substantiate, their funding requests will be reduced to the amount that is substantiated. Accordingly, we remand these Requests for Review and direct SLD to grant the commitment requests in accordance with this Order, unless SLD identifies other grounds for denial.

3. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Requests for Review filed by Greenbrier County School District, Cleveland, Ohio on December 22, 2003; Mason County School District, Cleveland, Ohio on March 18, 2004; Preston County School District, Cleveland, Ohio on March 18, 2004; and Raleigh County School District, Beckley, West Virginia on February 3, 2005, ARE GRANTED to the extent described herein and REMANDED to SLD for further action consistent with this decision.

FEDERAL COMMUNICATIONS COMMISSION

Vickie S. Robinson
Deputy Chief
Telecommunications Access Policy Division
Wireline Competition Bureau

²See generally Requests for Review. USAC utilizes a thirty percent processing benchmark when reviewing funding requests that include both eligible and ineligible services. This thirty percent benchmark was codified by the Commission in 2003. See *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202, 9215-9216, paras. 38-41 (2003); 47 C.F.R. §54.504(d). Under this benchmark, if thirty percent or more of the request seeks funding for ineligible services, the Administrator will deny the funding request in its entirety. 47 C.F.R. § 54.504(d).

³*Request for Review by Iroquois West School District 10, Schools and Libraries Universal Service Support Mechanism*, File No. SLD-343292, CC Docket No. 02-6, Order, 20 FCC Rcd 540 (Wireline Comp. Bur. 2005) (*Iroquois Order*). See also *Request for Review by Berkeley County School District et al, Schools and Libraries Universal Service Support Mechanism*, File No. SLD-338662 et al, CC Docket No. 02-6, Order, DA 05-326 (rel. Feb. 7, 2005).